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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/375,120	08/16/1999	DANIEL B. REENTS	2000.012600	4618

23720 7590 01/31/2005

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EXAMINER

CHASE, SHELLY A

ART UNIT PAPER NUMBER

2133

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/375,120	<b>Applicant(s)</b> REENTS ET AL.	
	<b>Examiner</b> Shelly A Chase	<b>Art Unit</b> 2133	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 September 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 37-41 is/are rejected.
- 7) ☒ Claim(s) 8-36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

1. Claims 1 to 41 are presented for examination.

### ***Response to Amendment***

#### ***Drawings***

2. The objection to the drawings is withdrawn.

### ***Claim Rejections - 35 USC § 103***

3. The rejection of claims 1-7 and 37-41 under 35 USC 103 (a) as being obvious over Gulick in view of Martin et al. is **maintained**.

### ***Response to Arguments***

4. Applicant's arguments filed 9-20-2004 with respect to claims 1 to 7 and 37 to 41 have been fully considered but they are not persuasive.
5. In response to the arguments concerning the previously rejected claims the following comments are made:

Applicant's representative is attempting to exclude the Gulick reference under 35 U.S.C. 103 (c); however, the examiner would like to point out that the attempted is in error since, MPEP 706.02 (I)(1) states "*This change to 35 U.S.C. 103(c) applies to all utility, design and plant patent applications filed on or after November 29, 1999, including continuing applications filed under 37 CFR 1.53(b), continued prosecution*

*application filed under 37 CFR 1.53(d), and reissues. The amendment to 35 U.S.C. 103(c) does not affect any application filed before November 29, 1999, a request for examination under 37 CFR 1.129 of such an application, nor a request for continued examination under 37 CFR 1.114 of such an application” and the application has a filing date of 8-16-1999.*

In response to applicant's argument that Martin does not teach a frame tracking unit capable of automatically adjusting a data rate based upon a data frame error, the examiner disagrees since, Gulick in view of Martin teaches the invention as claimed. Specifically, Gulick teaches a USB host monitoring a clock rate and adjusting the clock rate based on the level of the buffer (see col. 7, lines 35 et seq.). Gulick does not specifically teach automatically adjusting the clock rate or a data rate based on a transmission rate; however, Martin teaches a controller (40) that includes a rate control module (142) providing rate control functionality wherein the transmission rate is modified if a transmission delay (“error”) is detected (see col. 8, lines 25 to 37). Martin also teaches a transmission manager communicating with the controller and the rate control module providing rate control for a transmitted signal for ATM cells (see col. 8, lines 45 to 53).

Therefore, the examiner maintains that the combination of Gulick in view of Martin substantially teaches the claimed invention of a frame tracking unit automatically adjusting a data rate based upon a data frame error.

As to the argument that Martin does not teach frame tracking much less adaptive frame tracking, the examiner disagrees with applicant representative since, Martin

teaches a modem (16) with a controller (40) managing rate control for singles being transmitted (see col. 5, lines 59 to 62) wherein the received signals are data blocks of ATM cell payloads that is formatted into USB packets of 64-byte (see col. 6, lines 45 to 60). Martin also teaches managing the ATM cell to reduce delays (see col. 8, lines 14 et seq.).

As to the argument that the combination of Gulick and Martin does not provide adaptive frame tracking, the examiner disagrees since, Gulick teaches monitoring a buffer for adjusting the clock rate based on the content of the buffer and Martin teaches adjusting the rate of a cell based on the transmission rate. Therefore, the examiner maintains that the combination of Gulick and Martin is obvious over the claimed invention of adaptive frame tracking.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

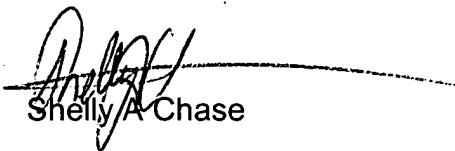
Art Unit: 2133

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelly A Chase whose telephone number is 571-272-3816. The examiner can normally be reached on Mon-Thur from 8:00 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on 703-305-9595. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Shelly A Chase